

OCT 14 2003

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Nixon Campaign Fund and
John C. Lanham, as treasurer

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MUR 4831
MUR 5274

SENSITIVE

GENERAL COUNSEL'S REPORT #7

I. ACTIONS RECOMMENDED:

Accept the attached Conciliation Agreement with the Nixon Campaign Fund and John C. Lanham, as treasurer; take no further action with respect to the Democratic Senatorial Campaign Committee and Andrew Grossman, as treasurer; and close the file and approve the appropriate letters.

II. DISCUSSION

A. NCF CONCILIATION AGREEMENT

24-04-406-4629

24.04.406.4630

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B. THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE

This matter involves two other Respondents, the Democratic Senatorial Campaign Committee (the "DSCC") and the Missouri Democratic State Committee (the "MDSC"). As previously noted, the MDSC executed a conciliation agreement and the file has been closed with respect to this respondent. With respect to the DSCC, this Office found no evidence that the committee accepted and failed to report or forward earmarked contributions for Nixon and, therefore, we recommend that no further action be taken against it and the file be closed.

During the course of the Commission's investigation in these matters, this Office subpoenaed documents regarding the DSCC's relationship with the NCF and records for fifty-two DSCC contributors who had previously given to Nixon. None of the contribution checks were annotated "Nixon." Discovery established that the DSCC "tallied" contributions raised by candidates.² Nine of the fifty-two contributions had been tallied to Nixon and all nine of them were made prior to the solicitation activity investigated in these matters. Sixteen contributions were tallied to other candidates. The remainder were not tallied to any candidate. Most of the

² Tallying is not synonymous with earmarking. Tallying is the practice of tracking funds raised by specific candidates. In making its decision on the level of financial support it will provide candidates, the DSCC considers the tally along with other factors, such as the closeness of the race, the financial ability of the candidate to raise his own funds and the candidate's support for DSCC fundraising in the past. See First General Counsel's Report in MUR 3620, September 9, 1994, at 1-2.

1 tallied contributions were accompanied by correspondence from the contributors that clearly set
2 out their understanding of the tally program and their intent that the funds be used by the DSCC
3 at the DSCC's discretion. These documents support the DSCC's assertion that it was engaged in
4 a legitimate tally program and that it did not accept contributions earmarked for Nixon.

5 **III. RECOMMENDATIONS**

6 1. Accept the attached Conciliation Agreement with the Nixon Campaign Fund and
7 John C. Lanham, as treasurer;

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9 2. Take no further action against the Democratic Senatorial Campaign Committee,
10 and Andrew Grossman, as treasurer;

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12 3. Approve the appropriate letters; and

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14 4. Close the file with respect to all respondents in MURs 4831 and 5274.
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18 10/10/05
19 Date

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21 Lawrence H. Norton
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